

1 _____ BILL NO. _____
2 INTRODUCED BY _____
3 (Primary Sponsor)
4 BY REQUEST OF THE STATE PUBLIC DEFENDER

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE REMOTE APPEARANCE OF PUBLIC
6 DEFENSE; AND AMENDING SECTION 47-1-103, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **NEW SECTION. Section 1. Assigned counsel may appear remotely -- process -- exceptions. (1)**

11 Except as provided in subsection (3), any attorney assigned under 47-1-104 to any criminal or civil matter may
12 appear remotely for any nonsubstantive hearing as defined in 47-1-103.

13 (2) A court presiding over matters assigned under 47-1-104 shall establish a consistent,
14 predictable process for attorneys to appear remotely in their court.

15 (3) A court may order an attorney assigned to a matter under 47-1-104 to appear in person for a
16 nonsubstantive hearing if the court finds good cause and issues an order at least 72 hours before the hearing.

17 (4) As used in this section, "appear remotely" means to participate in the hearing through the use
18 of two-way electronic audio or video communication, allowing all of the participants to be heard in the courtroom
19 by all present and allowing the party speaking to be seen.

20

21 **Section 2.** Section 47-1-103, MCA, is amended to read:

22 **"47-1-103. Definitions.** As used in this chapter, unless the context clearly requires otherwise, the
23 following definitions apply:

24 (1) "Court" means the supreme court, a district court, a youth court, a justice's court, a municipal
25 court, or a city court.

26 (2) "Director" means the director of the office of state public defender hired by the director of the
27 department of administration as provided in 2-15-1029.

28 (3) "Indigent" means that a person has been determined under the provisions of 47-1-111 to be

1 indigent and financially unable to retain private counsel.

2 (4) "Nonsubstantive hearing" means a court event in which the substantive outcome of the matter

3 will not be decided, including:

4 (a) arraignments and initial appearances;

5 (b) bond and bail hearings;

6 (c) status hearings, conferences, or court check-ins;

7 (d) hearings for the purpose of scheduling;

8 (e) omnibus hearings; and

9 (f) any hearing in which substantive arguments or testimony will not be heard.

10 ~~(4)(5)~~— _____ "Office" means the office of state public defender established in 2-15-1029.

11 ~~(5)(6)~~— _____ "Public defender" means an attorney employed by or under contract with the office and

12 assigned to provide legal counsel to a person under the provisions of this chapter, including attorneys

13 employed by or under contract with the appellate defender division and the conflict defender division.

14 ~~(6)(7)~~— _____ "Statewide public defender system", "state system", or "system" means the system of

15 public defender services established pursuant to this chapter."

16

17 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an

18 integral part of Title 47, chapter 1, part 2, and the provisions of Title 47, chapter 1, part 2, apply to [section 1].

19 - END -